

Exhibit 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: Methyl Tertiary Butyl
Ether ("MTBE") Products
Liability Litigation

Master File No.
1:00-1898

This Document Relates To:

City of Fresno
v. Chevron U.S.A. Inc., et al.,
Case No. 04 Civ. 4973

Case No.
MDL 1358(SAS)

DEPOSITION OF JAMES SHEHADEY
March 16, 2011 at 1:00 (1:09) p.m.
Before: ERIC L. JOHNSON
RPR, CSR #9771

Taken at:
Fresno, California

1 the wrong term like that catch me, or if you don't
2 understand the question --

3 A. Yeah.

4 Q. I am sorry, is Red Triangle also known as
5 one -- is what is known as a jobber that makes
6 deliveries of gasoline to stations?

7 A. Yes.

8 Q. Do you recognize any of these addresses beside
9 2809 South Chestnut as an address where Red Triangle has
10 made deliveries to?

11 A. No. I recognize some of the addresses, but not
12 as some that were made deliveries during my period with
13 the company.

14 Q. And we will get into your history in just a
15 moment. Now, is it correct, you had mentioned before we
16 went on the record that in response to the subpoena that
17 there were, I am not sure the count, I think it was a
18 little over 600 pages of documents that you had gathered
19 together?

20 A. Yes.

21 Q. In looking at this list of documents on the
22 attachment, starting with No. 1, and it goes up through
23 No. 35 on the next few pages, were you able to gather
24 together all the documents that were still in Red
25 Triangle's possession that are requested in this list?

1 A. Yes.

2 Q. And I think you described before we went on the
3 record, those were all given to the copy service here on
4 Wednesday, the day before yesterday?

5 A. Yeah, it was -- yes.

6 Q. I am sorry.

7 A. Monday afternoon. Yeah.

8 Q. There we go. On Monday, the day before
9 yesterday. Thank you. Today being Wednesday, I said
10 that backward.

11 Okay. So we will -- we will get to those
12 documents in just a moment. Were there any other
13 documents in your or the company's possession that are
14 requested here that were not given to the copy service
15 on Monday?

16 A. No. This is what we were able to find and
17 produce.

18 Q. You can set Exhibit 1 aside, or you can -- you
19 can just leave it there in front of you if you want, and
20 we will add to the documents here.

21 Let's talk about your history for a moment.
22 When did you start working for Red Triangle?

23 A. I started March 1st, 2002. My family purchased
24 Red Triangle Oil Company on that date and I started
25 working on that date, March 1st, 2002.

1 as Exhibit 5, would these include records of any product
2 that was put in your aboveground storage tanks at the
3 bulk plant?

4 A. No.

5 Q. Are there separate records that you maintain
6 showing those type of records as to what was put in the
7 aboveground tanks at the bulk plant?

8 A. Yes.

9 Q. Would you still have any of those records going
10 back to before 2003?

11 A. Probably 2003, because I think that's what we
12 still had for -- for this site.

13 MR. EICKMEYER: All right. I have no further
14 questions at this point. We can go off the record.

15 THE VIDEOGRAPHER: Going off the record at
16 4:40 p.m.

17 (Discussion held off the record)

18 THE VIDEOGRAPHER: Back on the record at
19 4:42 p.m.

20 EXAMINATION BY MS. KLEAVER

21 MS. KLEAVER: Hi, Mr. Shehadey.

22 A. Hi.

23 Q. I will introduce myself again. My name is
24 Alison Kleaver, and I represent ExxonMobil Corporation.

25 Just a minute ago, Mr. Eickmeyer was asking you

1 THE WITNESS: No --

2 MS. KLEAVER: Misstates prior testimony.

3 THE WITNESS: No, I wouldn't consider it -- in
4 fact, we call it unbranded because, like I said, there's
5 different people that -- some are traders and some hold
6 no -- no title, or they -- they don't refine the
7 product. And I would actually call it unbranded and
8 would just know it as -- as California Air Resource
9 Board grade gasoline coming from any one of several
10 terminals in the Bay Area, or Bakersfield at that time,
11 but wouldn't -- wouldn't know what brand it is.

12 The only brand I would differentiate was -- and
13 we are a, you know, branded jobber now for, you know,
14 when -- when the -- when the fuel comes in, each brand,
15 say, Chevron or Shell or 76 has an additive that you put
16 in, then it is branded gasoline. But on this, we would
17 refer to it really as unbranded gasoline.

18 MR. EICKMEYER: Q. Did you handle branded
19 gasoline, such as you just described, of putting
20 particular additives back in the 2002 or 2003 time
21 frame?

22 A. At that time we were a -- yes, a branded
23 jobber. It was Exxon -- we had Exxon -- Exxon stations
24 at that time. And that was, I think, through a --
25 through an agreement with Valero. It was actually

1 Valero refined because that was after the merger, and I
2 think it was through Valero, but it was Exxon branded
3 gasoline.

4 Q. So to your understanding, gasoline was refined
5 by Valero and then sold under the Exxon brand?

6 A. No, it was -- it would still have come in the
7 same pipeline and it had the Exxon additive. But as far
8 as who refined it, I wouldn't be able to say.

9 Q. So was the Exxon additive added at your bulk
10 plant?

11 A. No, that is at the terminal. At the terminal.
12 There are separate tanks with each additive component.

13 Q. Would that gasoline that you just described,
14 then, have been designated for delivery to Valero
15 stations?

16 MS. KLEAVER: Calls for speculation.

17 THE WITNESS: It would be for more like an
18 Exxon station.

19 MR. EICKMEYER: Q. I am sorry, I said that
20 backward. For an Exxon station.

21 A. Yeah.

22 Q. And would that gasoline have been stored in the
23 aboveground gasoline storage tanks at the bulk plant
24 that we discussed earlier?

25 A. No. No. Usually when you deliver to a

1 station, you get the order for the station, you pick it
2 up at the terminal and then deliver it to the station.

3 Q. So it wouldn't have gone back to your bulk
4 plant, then, but straight to the station?

5 A. To the station, yeah, to the station.

6 Q. What type of gasoline would have been stored in
7 the aboveground storage tanks at the bulk plant in 2002
8 or 2003, as far as what destinations that would be for?

9 A. For like the bobtail, the smaller trucks
10 deliver to farms and, you know, smaller deliveries,
11 500-gallon, 1,000-gallon deliveries to farms or
12 businesses. Where we had our own bulk tanks, because
13 sometimes the terminal would be backed up or, you know,
14 just in case there was ever an outage, you have a
15 reserve where you can draw on that for your smaller
16 trucks, plus the smaller trucks could load in the
17 morning versus having to go to the pipeline and wait in
18 line with a bunch of other trucks. So it is really more
19 for convenience, and for a business reason more than,
20 you know, the type of fuel.

21 Q. In looking at a document like Page 41, would
22 there be an indication on here as to where this shipment
23 would have been loaded at the terminal?

24 A. I don't believe so.

25 Q. I mean, I see -- let me ask you there -- under

1 Did your drivers have any kind of similar
2 procedure?

3 A. Yeah, it is whatever the term -- I think a lot
4 of terminals are different in that whatever the code is
5 at that terminal. Yeah, you have to put in whatever
6 code that is or, you know, number system or letter
7 system. And that is what -- you know, so they have to
8 have those information when they get there.

9 Q. So the drivers would be given that information
10 by your dispatcher?

11 A. Yes. Well, he would -- they would have that
12 with them at all times. And then the dispatcher would
13 just say Nella, you know, New West, Chevron, whoever.
14 And then they would look up their card and say, okay,
15 here's the code, and then get the gas.

16 Q. The driver would have some kind of a reference
17 to look up the code for whatever company they were told
18 by the dispatcher?

19 A. Yes.

20 MR. EICKMEYER: Okay. All right. Thank you.
21 I have nothing further.

22 FURTHER EXAMINATION BY MS. KLEAVER

23 MS. KLEAVER: Just a little bit of cleanup.

24 Q. So you mentioned that during the 2002, 2003
25 time frame, it is your recollection that Red Triangle

1 was an Exxon branded distributor?

2 A. Yes.

3 Q. But the gasoline that you picked up that was
4 Exxon branded didn't go to the cardlock facility,
5 correct?

6 A. Correct.

7 Q. And it didn't go to the bulk plant facility.

8 A. Correct.

9 Q. And if you have the deposition notice handy,
10 that was Exhibit 1.

11 A. I have --

12 MR. EICKMEYER: The one with the label. Yeah,
13 here you go.

14 MS. KLEAVER: Q. If you can look at the list
15 of addresses there. You didn't deliver Exxon branded
16 gasoline to any of those stations, correct?

17 A. Correct.

18 MS. KLEAVER: Okay. No further questions.

19 MR. EICKMEYER: Anything?

20 MS. OSEROFF: No further questions.

21 MR. EICKMEYER: Anything on the phone?

22 MS. WINTTERLE: No questions.

23 MR. EICKMEYER: Okay. I don't know if anyone
24 else is still there, but hearing nothing, then we can
25 conclude.